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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,283	06/27/2003	Douglas M. VanDeRiet	3591-1323	8536
7590	06/15/2004		EXAMINER	
Richard E. Stanley, Jr. BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			EDELL, JOSEPH F	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/608,283	VANDERIET ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Joseph F Edell	3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 June 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 35-42 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 35-37 and 42 is/are rejected.
- 7) Claim(s) 38-41 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 June 2003 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/24/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: the amendment to the specification filed 27 June 2003 claims priority to provisional applications 60/206,204, 60/206,205, and 60/206,457. However, the Declaration filed 27 June 2003 claims priority only to provisional application 60/206,225.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 42 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 42, “an axle” is recited in line 2 and “said axle” is recited line 5. It is unclear whether the two limitations define the same structural element or define separate structural elements. How can the axle pivotally attached to the first member and the second member also be received in the slot of the third member?

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 35 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,709,962 to Steinmann.

Steinmann discloses a chair that includes all the limitations recited in claims 35 and 36. Steinmann shows a chair having a main spring 78 (Fig. 6) biasing a back 13 (Fig. 1) from a reclined position to an upright position, and an assist spring 79 (Fig. 4) biasing the back from the reclined position to an intermediate position wherein the assist spring is a compression spring uncompressed from the upright position to the intermediate position and compressed from the intermediate position to the reclined position and the assist spring compresses between a non-moving face 112 (Fig. 4) and a moving face 109 (Fig. 4) that correspondingly moves as the main spring moves.

6. Claims 35 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,224,758 to Takamatsu et al.

Takamatsu et al. disclose a chair that includes all the limitations recited in claims 35 and 36. Takamatsu et al. show a chair having a main spring 36'c (Fig. 21) biasing a back B (Fig. 21) from a reclined position to an upright position, and an assist spring 16 (Fig. 21) biasing the back from the reclined position to an intermediate position wherein the assist spring is a compression spring uncompressed from the upright position to the intermediate position and compressed from the intermediate position to the reclined position and the assist spring compresses between a non-moving face 81" (Fig. 24) and a moving face 81' (Fig. 24) that correspondingly moves as the main spring moves.

7. Claims 35-37 and 42, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,249,839 to Faiks et al.

Faiks et al. disclose a chair that includes all the limitations recited in claims 35-37 and 42, as best understood. Faiks et al. show a chair having a main spring 82 (Fig. 6) biasing a back (Fig. 1) from a reclined position to an upright position, an assist spring 128 (Fig. 6) biasing the back from the reclined position to an intermediate position, a non-moving face (Fig. 9) defining a back face of a pocket formed into a base 62 (Fig. 9), a moving face (Fig. 9) defining a bearing guide slidably received in the pocket, a first member 18,76 (Fig. 6) attached to the back, a second member 110 (Fig. 6) pivotally attached to the first member, and a third member 62,84 (Fig. 6) with a slot (Fig. 9) and pivotally attached to the first member while pivotally and slidably attached to the second member, and an axle 124 (Fig. 9) being received in the slot of the third member wherein the assist spring is a compression spring uncompressed from the upright position to the intermediate position and compressed from the intermediate position to the reclined position.

#### ***Allowable Subject Matter***

8. Claims 38-41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to chairs:

U.S. Pat. No. 5,150,948 to Völke                  U.S. Pat. No. 5,160,184 to Faiks et al.

U.S. Publ. No. 2003/0107251 A1 to Wu    U.S. Pat. No. 6,644,749 B2 to VanDeRiet et al.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.  
JE  
June 4, 2004

  
Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600